

48A C.J.S. Judges § 62

Corpus Juris Secundum | August 2023 Update

Judges

Joseph Bassano, J.D.; Khara Singer-Mack, J.D.; Thomas Muskus, J.D; Karl Oakes, J.D. and Jeffrey J. Shampo, J.D.

III. Term and Tenure of Office; Vacancy

E. Termination of Term

1. In General

§ 62. Abandonment of office

[Topic Summary](#) | [References](#) | [Correlation Table](#)

West's Key Number Digest

West's Key Number Digest, [Judges](#) 10

A judge's term or tenure may be terminated by an abandonment of office consisting of a willful and voluntary forsaking or relinquishment of the office or of the right to hold it or a willful and voluntary failure to perform the duties of such office.

The general rules governing the abandonment of a public office apply to the abandonment of the office of a judge.¹ Thus, in order to constitute an abandonment of such office, there must be a willful and voluntary forsaking or relinquishment of the office or of the right to hold it² or a willful and voluntary failure to perform the duties of the office.³ The acceptance by a judicial officer of a second office which is incompatible with the one already held is a vacation of the original office and amounts to an abandonment of the same.⁴ A judicial office is not, however, abandoned, and the authority of a judicial officer is not, therefore, affected by his or her physical or mental inability to perform the functions of his or her office.⁵

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Footnotes

1 Ark.—[State v. Green](#), 206 Ark. 361, 175 S.W.2d 575 (1943).

2 Cal.—[Walter v. Adams](#), 110 Cal. App. 2d 484, 243 P.2d 21 (3d Dist. 1952).

Intention important

Iowa—[State ex rel. Adams v. Murray](#), 219 Iowa 108, 257 N.W. 553 (1934).

3 Ga.—[Johnson v. Brooks](#), 139 Ga. 787, 78 S.E. 37 (1913).

4 As to the holding of another office by a judge as creating a judicial vacancy, see § 75.

Entry into armed services

Ohio—[State ex rel. Witten v. Ferguson](#), 148 Ohio St. 702, 36 Ohio Op. 285, 76 N.E.2d 886 (1947).

5 Fla.—[In re Opinion of Justices](#), 67 Fla. 423, 65 So. 4 (1914).

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